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REPORTS

NOTES OF THE WEEK

The Late His Honour E. M. Konstam

We announce with regret the death at the age of 85 of His Honour Edwin M. Konstam, C.B.E., Q.C., who was a County Court Judge from 1932 to 1945 and an eminent authority on Income Tax law.

Edwin Max Konstam was born in 1870 and educated at Marlborough and Kings College, Cambridge. He was not called to the bar until 1899 when he was older than normal and after coming down from the University he first entered the Indian Civil Service in 1890 retiring on the grounds of ill-health 12 years later. After coaching by a future Lord Chancellor (Viscount Simon) Konstam began to practise in the specialist chambers of Mr. Walter Ryde, K.C. These were pre-eminent in the fields of rating and income tax and it was here that Konstam's subsequently very extensive practice was to be based. During World War I he served in the Food Production Department of the Board of Trade and was appointed an O.B.E. for his services in 1918, two years later being advanced to C.B.E. He took silk in 1919 and became the author of a well-known work on income tax that has run into many editions. To this he also added a leading work on the law of rating relief. In 1927 his peculiar experience led to his appointment as a member of the Treasury Committee on Codification of Income Tax Law. He served on this until 1936.

In 1932 he became a County Court Judge and served first on Circuit No. 56 (parts of Kent, Surrey and Sussex) and later on Circuit No. 48 (Lambeth and parts of Surrey and Sussex).

In the words of *The Times* " he made a highly competent Judge, shrewd and quick to detect fraud or sharp practice, especially in connexion with hire-purchase agreements which he viewed with considerable distrust. His caustic tongue, too, spared neither knaves nor fools." The late Judge became a Bencher of his Inn in 1925, and served as Treasurer in 1948. In 1940 he was appointed Chairman of the Home Secretary's Advisory Committee for the House to House Collections Act, 1939.

Deaf Drivers

Newspaper reports of a case heard recently at the Mansion House in the City of London show that the defendant in a motoring summons was alleged to be stone deaf. He was a provisional licence holder.

There appear to be grounds for considering whether, in modern traffic, anyone who is completely deaf is a fit person to be driving a motor vehicle. The sense of hearing is admittedly not the most important for a driver, but it certainly enables him to become more readily aware of other traffic and of what is going on around him. In the case of a learner driver another consideration arises. He must, with rare exceptions, be accompanied by a qualified driver whose function clearly is to assist and to supervise the learner in his driving. How can a supervisor act satisfactory as such if the learner cannot hear anything which the supervisor says to him. It was said of the learner in the Mansion House case that he could hear nothing at all and could be communicated with only by writing. In such circumstances what does the supervisor do who wants suddenly, and in fear of a possible emergency, to tell the learner to do or not to do something in connexion with his driving ?

It appears to be accepted that at the moment a licensing authority does not refuse to issue a driving licence to a deaf driver. Can we be sure that this is desirable ?

Police and Teddy Boys

The *Daily Herald* recently described plans to combat the activities of Teddy boys on Merseyside, where they have been causing trouble. The chief constable of Liverpool, it is stated, is going to make use of flying squad men with dogs, constables on motor scooters, and police-women trained in ju-jitsu. Wherever there is disturbance, police will be quickly on the scene, and the presence of a police dog has proved its value. On one occasion a gathering of more than 50 was broken up when a dog appeared.

The Teddy boy first came under notice as a youth principally distinguished by his eccentric dress which was, or was

fancied to be, that of a dashing young fellow of the Edwardian period. He soon became known as a Teddy boy, and that name has stuck. His reputation has gone from bad to worse, and he is now the equivalent of the Hooligan of some years ago, whose name is derived from that of a gang leader and a ruffian. He creates trouble in the streets, at dance halls and other places. Sometimes, by the time police arrive, a full-scale row is going on, blows have been struck, people injured and damage done to property.

Obviously, the sooner the police can be on the spot, the better the chance of suppressing the disorder and arresting offenders, and that is why the Liverpool method is likely to prove effective. A young rough will also dislike the prospect of being tackled by a powerful dog which, though it will not savage him, will not let him escape.

As girls often become involved in these outbreaks of hooliganism, the presence of some women constables may be useful, and Teddy boys need not imagine they will experience anything but humiliation and defeat if they try "rough house" methods on women who are skilled in ju-jitsu or judo.

Stealing Fixtures

The value of the property stolen is not a measure of the gravity of the offence, though it is a relevant fact. The kind of property and the place from which it is stolen may take the offence out of the category of simple larceny and bring it within one of the special classes sometimes called larceny with aggravation. Thus, stealing cattle is an offence punishable with imprisonment for 14 years as are certain offences of larceny in a dwelling-house, or from the person, and robbery with violence may be punished with life imprisonment. On the other hand, a first offence of dog-stealing has a maximum punishment of six months, and stealing its collar may have more serious results.

Some of the offences may not now be regarded as so grave as was the case when they were first dealt with in statutes fixing the maximum, but the wide discretion vested in the courts makes up for what may be anomalies. One offence for which the maximum punishment under s. 8 of the Larceny Act, 1916, is five years, the same as for simple larceny, is stealing fixtures. This is an offence that may have very serious consequences, altogether apart from the value of the property. In a recent case at the Bristol quarter sessions a man with a number of previous convictions was sentenced to two years for stealing lead pipes and brass taps as well as a gas boiler. It was stated that he had left gas and water escaping when he took them, and this was perhaps the worst feature of the offence, which might have caused great damage and possibly danger.

Order that Dog be Destroyed

The man who, having been summoned in respect of his two dogs which the court ordered to be destroyed, incurred large penalties for non-compliance with the order, has been in the news again. The police are reported as saying they had no power to destroy the dogs, and only the owner could have that done. One newspaper describes this as a loophole in the law.

It is quite correct that the police cannot seize and destroy a dog which has been the subject of such an order. They have statutory powers to seize stray dogs and in certain circumstances to destroy them. Where a magistrates' court has made an order that a dangerous dog is to be destroyed it is for the owner to see that the order is carried out. Failure renders the owner liable to continuing penalties. The usual form of order recites who has been found to be the owner, and that the dog has been adjudged dangerous, and that the court orders it to be destroyed, without, of course, saying who is to destroy it. The owner is usually served with a minute of the order, and he must obey it or be responsible to the court.

It may be assumed that when the police have obtained an order for a dog to be destroyed they will be on the look-out for it, and if it is seen they will interview the owner and, if necessary, take further proceedings. If the dog disappears, it is unlikely, we suppose, that the police will trouble further, although the fact may be that the dog has not been destroyed but removed to another area at a distance from the scene of his misdeeds.

Binding over the Complainant

When a man and his wife were each fined 5*s.* and bound over at Oxford for an assault, the chairman said they had received provocation. A cross-summons against the complainant was dismissed, but he was bound over.

The authority for binding over the complainant is *R.* v. *Wilkins and Others* (1907) 71 J.P. 327. There is no question of conviction or sentence, and the object of binding over the complainant is preventive only. The court acts on what the evidence has disclosed or on his behaviour in court, which leads to some apprehension that he may cause a breach of the peace.

There is no appeal against the order to enter into a recognizance in such a case, *R.* v. *County of London Sessions, ex parte Commissioner of Police* [1948] 1 All E.R. 72. However, if a Bill now before Parliament becomes law, a right of appeal will be conferred. The Bill seeks to amend the statute 34 Edw. iii cl. 1, a statute which, though nearly 600 years old, is daily acted upon in magistrates' courts.

Causing Bodily Harm by Neglect When Driving

Section 35 of the Offences Against the Person Act, 1861, enacts that: "Whosoever, having the charge of any carriage or vehicle shall . . . by wilful neglect, do or cause to be done any bodily harm to any person whatsoever, shall be guilty of a misdemeanour."

In *The Attorney-General* v. *Joyce* (1956) 90 Irish Law Times Reports 47, a point was taken under this section by counsel for the defence, apparently that there was no case to answer. The facts alleged were that the accused while driving a horse-drawn vehicle came into collision with a motor cycle. Both the driver of the motor cycle and a pillion passenger were killed. There was no independent witness of the accident but two witnesses for the State gave evidence that the accused's van approached and passed them about 200 *yds.* from the scene of the accident and that the van was then unlighted. On arrival at the scene of the collision a member of the Garda Siochana found a broken hurricane lamp near the van. The van was extensively damaged.

Lynch, J., held that failure to have a light in the circumstances was evidence upon which a jury could find "wilful neglect" within the meaning of s. 35 of the Act. In the result, however, the accused was found not guilty.

Tests for Drunkenness

Magistrates' courts are all too frequently concerned to hear the evidence of doctors called to testify about the fitness of a defendant to have been driving or been on charge of, a motor vehicle. It is customary for the evidence to show that certain, what may be called standard tests were applied to enable the doctor to come to his conclusion about the defendant's condition. We commented recently on the finger-nose test in connexion with a case in which a doctor who had placed some reliance on it so far as the defendant was concerned

was reported to be unable satisfactory to carry it out himself in the witness box. Now we read in a report in the *Daily Sketch* that on television recently doctors examined certain men, one of whom was a solicitor and had deliberately drunk eight whiskies for the purpose of the test. It is reported that at the end of their examination, conducted by means of the routine tests, one doctor decided that the solicitor was sober but that two other volunteers who had had one whisky each, were drunk. Another doctor thought the solicitor was drunk, but that one of the other two volunteers was as bad. The third doctor is reported to have carried out an off-screen check and to have picked out two sober men as drunk and passed the solicitor as sober. We did not see this television programme, and we have no knowledge of the matter beyond the information given in the *Daily Sketch* report. What does occur to us is that it is sometimes said that the evidence of a police officer and of other witnesses who tell what they saw happen at the time a defendant is on the road in his car is at least as valuable, and sometimes more reliable, than the opinion of a medical witness who sees the defendant in the police station some time later. But before commenting further we should like to hear any medical views about the results of the television programme referred to and the conclusions which can properly be drawn from it.

Forty as well as 30 Miles Per Hour

Publicity has been given recently to a report made by the London and Home Counties Advisory Committee on the operation of the 30 miles per hour speed limit in built-up areas or roads of traffic importance in the London traffic area.

It has been stated that the committee recommends the retention of the 30 miles per hour limit in built-up areas and has further recommended the introduction of a new speed limit of 40 miles per hour on some main roads where 30 miles per hour is considered to be unduly restrictive, but where uncontrolled speeds might be dangerous.

This recommendation for a 40 miles per hour limit was not unanimous. Four members of the committee are reported to be opposed to a differential speed limit but suggest that, in view of the conflict of opinion, there should be an experiment with a 45 miles per hour limit.

We think this is a highly controversial subject. The Pedestrians' Association has expressed its opinion on the proposal. This can be summarized by saying that they oppose any increase of the speed limit on roads in the area which are at present subject to the 30 mile limit but think that the introduction of a 40 mile limit on some roads at present without a speed limit would be better than no limit. They point out, however, the danger of confusion which may arise with two different speed limits. In spite of this they advocate a limit lower than 30 miles per hour through busy shopping areas, their argument being that the safety of local residents must not be sacrificed to traffic convenience.

It must be admitted, we think, that it is quite impossible for the police adequately to enforce the present 30 mile limit. It would be just as difficult, presumably, for them to enforce any other limits which might be introduced, and there can be no doubt that it would add one more difficulty to the many with which drivers have already to contend if they had to be on the look out for, and to keep in mind, not one general limit (where any existed) of 30 miles per hour but possibly 30 here, 40 there, 20 somewhere else and so on. On the whole, therefore, it would seem that the obvious disadvantages of varying limits should be very fully considered before any decision is come to on the matter.

The Slum Clearance (Compensation) Bill

This Bill which we described in our issue of March 3, last, recently received a second reading in the House of Commons. It is a step in the right direction (and as such we welcome it) but it is not, we feel, a measure which will produce any very big results. The object of the Bill is to obviate hardship to owner-occupiers of houses who bought them in the special conditions of the war and post-war years (1939–1955) when the housing scarcity forced some desperate people to buy houses in slum areas in default of anything else being available. The Bill also seeks to help by compensation on the same basis to the occupier of business premises in an unfit house purchased compulsorily on or after December 13, 1955.

The basis of compensation laid down in cl. 1 of the Bill is the full compulsory purchase value less the compensation which was or would have been payable in respect of the interest in connexion with the compulsory purchase of the house at site value. Most people think that this is the current market value less the site value but they are mistaken. What has to be applied is sch. 4 to the Housing Act, 1936, and under r. 2 of this:

" If the arbitrator is satisfied that any premises are in a state of defective sanitation, or are not in reasonably good repair, the compensation shall be the estimated value of the premises if put into a sanitary condition, or reasonably good repair, less the estimated expense of putting them into such condition or repair . . ."

Many houses concerned will in the nature of things be in a defective condition (*ex hypothesi* the Bill is a measure designed to help the clearance of slum areas). In some cases, therefore, little or nothing (or even a minor quantity) would be payable under the Bill although in others the position could be brighter because whilst technically unfit within the strict requirements of the Housing and Rent Repair Act, 1954, they are none the less in a substantially sound condition. There may also, of course, be individual houses which must be pulled down in the course of a clearance scheme.

Superannuation—Payments for Evening Work

An interesting point went to the Ministry of Housing and Local Government recently on appeal from a decision of a county council to the effect that a part-time instructor at an evening institute was not a contributory employee under s. 3 (1) of the Local Government Superannuation Act, 1937.

The facts were that the person concerned was employed in the treasurer's department of the county council and was a contributory employee in that employment. In 1952 he commenced employment as a part-time assistant teacher at the institute and continued this employment in subsequent educational sessions. In November, 1953, the county council notified him of their decision that he was not a contributory employee in his part-time employment which was described as casual.

The appellant contended that he was entitled to become a contributory employee by virtue of the definition of whole-time officer contained in s. 40 (1) of the Act of 1937. This reads: " ' whole-time officer ' means, in relation to any local authority, an officer who devotes substantially the whole of his time to their employment, and includes an officer who is employed by them for a part only of his time but devotes substantially the whole of the rest of his time to employment by one or more other local authorities."

The county council contended that as an evening class teacher he did not render

continuous service and his appointment was of a casual nature. They further contended that evening institute teachers undertake to carry out work for an inclusive fee and should be regarded as persons who contract to carry out certain duties for a fixed sum and not as persons who receive a salary.

The Minister's view was, first, that as the employment was regular and definite over a period, and was the subject of an agreement with the county council it did not constitute casual employment. Secondly, the Minister stated that he could find no evidence supporting the view that the appellant was a contractor and not an employee: in his employment at the institute he was subject to the regulations of the county council, as education authority, and there was nothing in the council's notification of appointment to indicate that he was other than an employee of the council.

The appeal was accordingly allowed.

This decision will make it necessary for many local education authorities to review their practice as it is in only a minority of cases at present that payments for evening work are regarded as superannuable. It may well be found that many employees are of a different mind from their colleagues and do not wish to pay contributions on earnings which may not form part of the remuneration on which their pensions will be calculated; generally speaking the need for supplementing incomes in this way is not quite so pressing in the later stages of official life. Nevertheless, wishes cannot override the law, although they may secure its alteration.

Some authorities likewise are not enthusiastic and are taking action to secure an alteration. For example, in their latest Bill, Middlesex have included a clause the effect of which is to prevent reckoning of service of this kind for the purposes of the Local Government Superannuation Acts.

LAW AND PRACTICE OF OBSTRUCTION

We have printed a good deal about parking and obstruction; our purpose in this article is to examine the legal position, and make some comments upon enforcement of the law. Earlier this year, we called attention at p. 98, *ante*, to reg. 89 of the Motor Vehicles (Construction and Use) Regulations, 1955. Those Regulations, S.I. 1955, No. 482, carry a fine of £20 instead of the old statutory £2 or £5 under other enactments. The retired naval officer whose mission in life was, in his own opinion, to teach London motorists to be thoughtful for pedestrians, and in pursuance of that mission drove his car in such a way as to force other drivers to stop, for which he was periodically prosecuted by the metropolitan police, had (we believe) been convicted both under s. 72 and under s. 78 of the Highway Act, 1835. He might also have been prosecuted (perhaps by now he has been) under reg. 89, *supra*, or under s. 54 of the Metropolitan Police Act, 1839. We shall have occasion to mention this last section again, but otherwise we do not intend to discuss whatever provisions there may be in the local Acts applying in London or elsewhere, but shall confine ourselves to the general law. Even in the general law it would be rash to assert that there are not provisions other than the three already mentioned which apply in London, and s. 28 of the Town Police Clauses Act, 1847, which does not but, outside London, is in force in all boroughs and urban districts by virtue of its incorporation with the Public Health Act, 1875, but it will be enough for our purpose to consider the provisions appropriate to obstruction by vehicles in the said s. 28; the two sections of the Highway Act, 1835, and the Regulations of last year. We may pause to say that the possible fine of £20 under those Regulations weakens a point we made at 119 J.P.N. 504, in speaking of certain byelaws. We are indebted to a magistrates' clerk in a county borough who wrote to us pointing out the oversight. Incidentally, he has suggested that a preference in some areas for proceeding under the older law, instead of the Regulations, despite the lower penalty, may have been due to the different destination of the fines, before the Justices of the Peace Act, 1949.

When consolidation of any group of enactments is taken in hand the parliamentary draftsman and the Joint Select Committee of both Houses which scrutinizes his handiwork must examine the differences, however minute, between one enactment and another on the same subject, in order to make sure that they will not alter the law by inadvertence, seeing that Parliament prescribes procedures which are not the same, for pure consolidation and for consolidation with amendment. Other persons, even lawyers, may not find this exactitude to be always necessary in daily work, but it must be puzzling to anyone who stops to think that in the Highway Act, 1835, Parliament included sections which overlap like s. 72 and s. 78, and a few years later enacted a further overlap in s. 28 of the Act of 1847. The explanation is that both the Highway Act and the Clauses Act were the result of local experiments; these general statutes were compiled of bits and pieces. There was no such profession as that of parliamentary draftsman, and in an epoch when all legal draftsmanship was influenced by the verbose repetition which had grown up in conveyancing, nobody saw strong enough reason to arrange the legislative fragments in coherent fashion. Today the examination of these enactments (and there may be others in local Acts elsewhere, also overlapping) throws into strong relief the need for Parliament to take in hand the whole group of provisions about obstruction of the highway, and to consolidate them into the form of mutually consistent prohibitions and requirements in modern language—preferably the same for the whole country, if only the London authorities concerned could be persuaded to come into line. Meantime the lawyer who has to advise under which section an information shall be laid must obviously pay attention to these differences and discrepancies of wording, and defending counsel or solicitors will equally be alert to see whether they can shelter behind *Gill* v. *Carson and Nield*, *infra*, especially if the information has been laid under the Regulations of 1955 or under the Highway Act, 1835, instead of under the Act of 1847 which was before the Divisional Court in that case.

Obstruction of the highway is obviously a matter of degree: nobody would suggest that a carman was guilty of obstruction if he stopped to pick up a parcel which had accidentally fallen from his load. It will therefore be wise to begin with common law, because there we find the familiar reasonable man; obstruction is actionable and may be indictable if reasonable men (that is to say, a jury) think that it really existed (*de minimis non curat lex*) and secondly think it amounted to something more than a reasonable man would have expected his neighbours or passers-by to put up with. It may be remarked that in some cases under statute, such as *Dunn* v. *Holt* (1904) 68 J.P. 271, the courts have been pretty generous about what constituted the *minima* for which the law cares nothing, and pretty latitudinarian about the conduct of the hypothetical reasonable man. But these cases do not affect the central principle which, before

statute law created summary offences in this context, was already accepted by the courts. It was because common law gave its remedy by action in the superior courts or by indictment, which were not appropriate to trivial every day occurrences, that local Acts, followed by the general statute of 1835 and the Clauses Act of 1847, authorized proceedings before magistrates. Decisions of the Divisional Court show that in such proceedings the common law should be remembered as a background.

The *locus classicus* upon obstruction of the highway as affected by reasonableness is to be found in *Original Hartlepool Collieries Company* v. *Gibb* (1877) 5 Ch. D. 713; 41 J.P. 660, where Jessel, M.R., sitting as a court of first instance said: "It is not illegal to bring in a coal wagon which is a good deal longer than the frontage of your house, in front of your house to deliver the coal . . . Nobody says that anything of the sort is illegal. Consequently, all that they have done was perfectly legal, perfectly right, and perfectly usual; subject to what I am going to say. In ascertaining, however, the reasonableness of the acts of the plaintiffs, one consideration must not be overlooked. Besides a reasonable right of access, they have a reasonable right of stopping, as well as of going and returning, in the use of the highway . . . You cannot lay down *a priori* what is reasonable . . . It would be clearly reasonable, for instance, if a wheel came off an omnibus in the middle of a highway, for a blacksmith to be sent for to put the wheel on the omnibus if that were the easiest mode of moving it out of the way, and the omnibus might lawfully stop there until the wheel was put on . . . Nobody would deny that if the blacksmith chose to carry on his trade . . . and kept omnibuses opposite his smithy door for that purpose, that would be an obstruction of the highway and would be a nuisance . . . So again, it is perfectly reasonable that A shall put his carriage before his house door, even though it may overlap his neighbour's door. For instance, take the houses . . . in Portland Place . . . where the doors immediately adjoin. It is impossible to draw up a carriage to the one without overlapping the other. There is no doubt that it is quite a reasonable thing to stop a carriage there for the purpose of taking up and setting down, or even for the purpose of waiting there a reasonable time. But suppose the neighbour's carriage comes up, and wants either to take up or to set down, it would be monstrous to hold that the coachman of the first carriage should not move out of the way. It would then become unreasonable. When he sees the neighbour's carriage coming up, he is then bound to get out of the way, and he commits a private nuisance to his neighbour in the nature of a public nuisance, by stopping before his door and preventing his coming up, he not requiring to stop there. In that case therefore, if he persisted in doing this day after day, I have no doubt that his neighbours might bring an action against him and get, no doubt, nominal damages; but nominal damages would establish the right and carry the costs . . . In the same way it is not unreasonable that your neighbour should give an evening party occasionally and that there should be a file of carriages running across your door or opposite your door. But it would be very unreasonable if anybody did not break the file to allow your carriage to come up to your own door and still more unreasonable if, instead of giving parties occasionally . . ., your neighbour were to turn his house into an assembly room . . .—in consequence of which a file of carriages came every day and obstructed the carriageway to your house. I only give these as illustrations. The law is quite clear. The question of reasonableness has been said to be a question for a jury. It must be reasonable use and nothing else."

It will be seen that the Master of the Rolls was here speaking entirely of the respective rights of private persons at common law. The case arose out of mooring in the River Thames. Plaintiffs had been in the habit of mooring to their coal wharf a vessel which projected along the defendant's frontage; in order to prevent this the defendant had attached to his own frontage a floating raft which made access to the plaintiffs' wharf impossible with so large a vessel. The Master of the Rolls, with his analogy from carriages at private houses, treated their respective rights as actionable, and as arising under the common law of highways: it would have been irrelevant for his purpose to deal with the statute law making obstruction an offence, although in any discussion of such matters today the modern mind, fed upon a century of petty legislation, turns by instinct to the sort of law enforced by a policeman. In consequence, the modern mind is all too ready to assume that there is no remedy, and even no possibility of remedy, when once a police authority decides that the motorist may behave as he likes, regardless of the convenience or rights of others. (Which appears to many people to be the position reached today, not in London only but in every town.) But before we proceed to decisions upon the statute law of highways, it will be worth while to look at two other cases about obstruction of navigable water, earlier than the judgment given by Jessel, M.R., in 1877 upon civil rights at common law. In *R.* v. *Betts* (1850) 14 J.P. 318, a river was obstructed by a railway bridge constructed under statutory powers, which however did not authorize (or did not expressly authorize) the degree of obstruction which had come into existence at the time the proceedings were taken. Upon an indictment for common law nuisance, a jury at Assizes found that the navigable channel had been narrowed, but that in fact the obstruction was not appreciable. On argument about the effect of this verdict, the Queen's Bench held it to be an acquittal. This may present a useful analogy for many cases where proceedings could be taken for technical obstruction of the highway, and the basis of decision can be compared with the doctrine of "reasonableness," on which Jessel, M.R., based himself in *Original Hartlepool Collieries* v. *Gibb*, *supra*, although it can be doubted whether, in some of the cases on the highway statutes, the courts have not gone too far in admitting their own ideas of reasonableness, and the supposed principle *de minimis*, to defeat the express terms of Acts of Parliament. On the other side there may be quoted *A.-G.* v. *Terry* (1874) 38 J.P. 340, where a navigable river was obstructed by a projecting warehouse. The warehouseman contended that no person had been proved to be obstructed, but the full Court of Appeal, with Lord Cairns, L.C., presiding, held that there was even so a tangible obstruction which must be enjoined.

Let us pause to consider the applicability of these three decisions to everyday occurrences in an ordinary street. A wagon stops to deliver coal at the house of Sir George Jessel's neighbour; it overlaps Sir George's doorway, but it stays no longer than is necessary. There is no tort and no breach of statute. If the wagoner goes off on a frolic of his own and leaves the vehicle, so that Sir George cannot reach his door, there is a tort (and may be an offence punishable at common law and under statute) but the remedy depends upon the degree of the obstruction. If the coal merchant, or for the matter of that Sir George's neighbour who owns an outsize car, habitually impedes access to Sir George's doorway, there is certainly an actionable nuisance, for which there can be damages and an injunction: there may also be a trespass actionable by the owner of the soil—*see Harrison* v. *Duke of Rutland* (1893) 57 J.P. 278 and *Hickman* v. *Maisey* (1900) 82 L.T. 321, cited in this context at 119 J.P.N. 632. The cases of *Lade* v. *Shepherd* (1735) 2 Stra. 1004; *Burgess* v. *Norwich Local Board* (1880) 45 J.P. 256, and *Salt Union Ltd. and Droitwich Salt Co., Ltd.* v. *Harvey & Co., Ltd.* (1897) 61 J.P. 375, also suggest that the adjoining owner or occupier, or owner of the subsoil, has a remedy at common law, in nuisance or in trespass.

(*To be continued*)

WILTSHIRE QUARTER SESSIONS AND ASSIZES, 1736

By ERNEST W. PETTIFER, M.A.

This volume, published as No. XI in the Records series of the Wiltshire Archaeological and Natural History Society, (price 30*s*.), late in 1955, was edited by Mr. J. P. M. Fowle, formerly assistant archivist to the Wiltshire county council. Mr. Fowle has since left England for Uganda, where he now holds the appointment of Archivist to the Government of Uganda. Before he left Wiltshire Mr. Fowle had examined the whole of the surviving records of the county up to 1888, the year when most of the administrative duties of the county justices were transferred to the county councils, a notable achievement in itself, and it may seem singular that, after such a comprehensive survey of the material available, this issue should be limited to the records and events of a single year.

The decision to take this step, however, seems to have been come to deliberately by the Society. In some counties where there is abundant material the policy has been to compress a number of years into single volumes and thus complete the publication of an entire series as quickly as possible. A second group of counties has adopted a policy of slowly working through the material from the beginning, year by year, and so giving a fuller account of each period as it comes under review. It is no part of the reviewer's task to discuss the merits of these two points of view; it is sufficient to say that the Wiltshire county council chose the latter, and decided to take one year only of their sessions records when preparing the volume.

When he began his task, Mr. Fowle would have before him a considerable array of books and documents, even though he was dealing with one year's records only. There would be minute books, order books, process books, lists of estreats of fines, and the " great rolls " themselves, or transcriptions of them. There was a complete list of the justices for the county acting in 1736, and a " Freehold Book " containing long lists of freeholders, leaseholders and copyholders qualified to serve on juries. These two latter are of more interest to the genealogist and local historian than to students of quarter sessions history, but they are included in the book. Another small pile of books provided material of unusual interest for they were the gaol book, order book, process book and estreats (or forfeitures) giving details of proceedings at the Lent and Summer Assizes for 1736. The work on these and the accompanying notes had already been prepared by Mr. N. J. Williams, the general editor of the Wiltshire Records series, as Mr. Fowle acknowledges, and he claims that these are the first records of Assizes to be printed. Lastly, but of extreme interest, was a list of charges made by the High Sheriff of Wiltshire, which, with the Assize records, will be dealt with later in these notes.

From this material Mr. Fowle has produced a book of very real interest and value, and one which is a notable addition to the growing library of quarter sessions records. A lengthy introduction, written with all the competence of the expert antiquarian and historian, and a most satisfying index, complete Mr. Fowle's achievement.

The four quarterly sessions of the justices were held in different towns—New Sarum (Salisbury), Devizes, Warminster and Marlborough. In no case is the place of meeting given, but the Devizes sessions adjourned to the King's Head at Wootton Bassett, the Warminster sessions to the Blue Boar at Salisbury, and the Marlborough sessions to the Angel Inn at Marlborough, and it seems possible that all the quarterly and intermediate sessions may have been held in licensed houses.

The list of justices holding office for the county in 1736 is a rather extraordinary one. It is usual to find in all commissions of the peace for any period in the seventeenth and eighteenth centuries the names of holders of high office and other prominent men, but the provision of justices in Wiltshire in 1736 seems to have been distinctly unusual and overdone ! There were 65 peers (including H.R.H. Frederick, Prince of Wales, the Archbishop of Canterbury, the Lord Chancellor, the Lord Chief Justice and numerous Dukes), 13 baronets, 13 knights (including Sir Robert Walpole, the Prime Minister, and three law lords), 145 esquires, five clerks in holy orders, and three sergeants-at-law, a total of 244. Happily there is no evidence that 244 justices ever presented themselves for service on any one day, and the work was, as usual, carried out by the faithful dozen or so of local men.

The editor has compiled a list of clerks of the peace for the county which goes back to the extremely early date of 1390. Clerks of the peace were first appointed very soon after the Act of 1360 had created justices of the peace, but the Act, 12 Ric. 11 c. 10, for regulating the wages of justices (4*s*. per day) and their clerks (2*s*. per day) was passed only two years before Richard Collingbourne became clerk of the peace for Wiltshire in 1390.

The county over which the justices exercised jurisdiction consisted of 32 hundreds, and innumerable parishes, and there seems to have been an alteration in the county boundary since 1736, for the town of Hungerford and two or three parishes, now in Berkshire, seem to have been in Wiltshire at that time, but, from the topographical point of view, the county is now much the same as it was 220 years ago.

The lists of jurors summoned were very lengthy, and the distances they had to travel may account for a rather large number of absentees. Sometimes jurors managed to get messages conveying their excuses to the clerk of the peace, and " *Ex* " (for *excusatus* or *excused*) is occasionally written against a name, but others were fined. Here and there are entries of presentments made by hundred juries against their own people for non-attendance as in the case of Chippenham—" Item, we present William Pinchen and Thomas Iles, being to of ower jury men, for not attending !" Grand jurymen were fined £1, and hundred jurymen 6*s*. 8*d*. for not attending, but there were also penalties for those who, after being sworn in, quietly stole away. The amount subsequently collected from them by the village constable or the sheriff's bailiff, was usually 10*s*. The sheriff took a keen interest in penalties for he had many bills to pay at each session before he could remit to the Exchequer. Twenty fines at 6*s*. 8*d*. each imposed at the Easter Sessions in May 1736, would be very welcome !

A general survey of the various matters which came before the sessions in 1736 discloses no very serious crime. Assaults were fairly numerous, but many of them have the appearance of local quarrels. The sheriff's bailiffs, petty constables and tithingmen came in for a certain amount of rough handling. A pinder and a parish constable, taking impounded cattle to the common pound, were assaulted and the animals rescued by a crowd of villagers. A sheriff's bailiff, William Gibbons, who had made a distraint upon the goods of William Smith of Calne for a debt of £140, for which there had been an award in the royal courts at Westminster, was the prosecutor in a case of riotous assembly, assault and rescue. Twenty-one

Calne residents were involved. The bailiff had marked goods valued at £90, *viz.*, 12 quarters of barley, a chest of drawers, a bed, a table board, 50 quarters of malt, etc.: and was, it would seem, sitting in the house, presumably waiting for daylight before removing the goods. The villagers had other ideas about this, however, and as he sat there a number of people were busy removing the goods, loading them on to horses and taking them away to safety. This operation completed, they decided that it was time to remove the officer of the law, and he was hustled into the street. The indictments could not be proceeded with, for all the defendants applied for *certiorari* and the cases were removed to Westminster. In another case a Westbury labourer pleaded guilty to an assault on a J.P., Mr. Thomas Phipps, and to trespass, and was fortunate to escape with a half-crown penalty in each case. The usual fine for a common assault was 6*d.* This amount, also, was the usual penalty imposed by the justices in cases of petty larceny, but, almost invariably in such cases, a sentence of whipping was added. Five women, on one day, escaped fine but each was sentenced to be whipped. There is no doubt that the justices kept a watchful eye on all cases of larceny, and that they dealt with many cases which, from the strictly legal point of view, were outside their jurisdiction and should have been sent to the Assizes. Most of the justices were landowners and employers, and it seems obvious that they were not eager to send useful farm labourers, nor their wives, to the Assizes, there possibly to be hanged or transported. They preferred to deal with local offenders in their own way. Sometimes their sentences appear lenient but sometimes they were more severe. Hannah Carrington of Corsham, spinster, who stole a "shift" (chemise) value 5*s.* was whipped and imprisoned for three months. Thomas Heath, a labourer of Vernham, who broke into a neighbour's house with intent to steal a gamecock which he coveted, was committed to the house of correction for six months.

The articles stolen can be classified under three headings, (1) clothing, such as caps, a camlet cloak, aprons, stockings, breeches, perukes, shirts, etc.; (2) household articles and agricultural implements, *e.g.*, three pewter dishes, a copper saucepan, a brass boiler, a pail, cutlery and spoons, pickaxes, spades, axes, etc.; and (3) cocks and hens. One charge of larceny which was unusual was that brought by two clothiers of Bradford-on-Avon against Francis York of the same place, a broadweaver, "for collecting, buying, and having found upon him about 30 pounds weight of ends of woollen yarn, broken skeins of yarn and other (missing) in a bag." There seems to be a suggestion in this charge that those in the weaving trade were determined to prevent the use of inferior materials, and the justices seem to have agreed that the offence was a serious one, for the unhappy offender was sentenced to three separate whippings on market days at Warminster, Westbury and Devizes, while the yarn ends were to be burnt at Bradford. Only one other charge of larceny must be noted, for it ends with a query. Two yeomen of Liddington were alleged to have assaulted William Neale, one of the overseers of the parish, and to have stolen from him "one paper book of accounts of payments and disbursements of him the said William Neale in and about his said office of overseer." The case was in the lists of two or three sessions, but the aggrieved overseer seems to have been missing. Finally the men demanded trial by jury, and were discharged. Was the overseer not altogether sorry to lose his account book, and did he dispose of it in some way to conceal the fact that it did not balance very well, bringing a bogus charge against the two men to account for the loss of the missing book ?

Entries with regard to the gaol system are fewer than usual in sessions records. There was a house of correction at Devizes, twice described as a bridewell, possibly used also as a gaol, and a gaol at Fisherton Anger (a parish now absorbed into Salisbury). A bridewell at Marlborough is mentioned once. The justices periodically made the usual allowances for the provision of bread for poor prisoners: a prisoner in the Devizes institution was charged with drawing a knife and threatening two people, possibly other inmates, but there is really no positive information as to the conditions in these places, nor how the prisoners fared. Isaac Edwards, keeper of the Devizes "bridewell" received £10 per annum as his salary. Edward Holdaway, keeper of the Fisherton Anger gaol, received only £6 13*s.* 4*d.* but both men received considerable sums for "carriage of prisoners," and for the bread money. One item recorded payment to Edwards of £15 to cover these two charges. Another entry runs—"Mr. Holdaway, order on treasurers to pay him £56 13*s.* 4*d.* as usual," but two other items throw some light upon the payments for "carriage of prisoners." The one records the payment to Holdaway of £20 for "transportation of three convicts, and 12 (*sic*) for the expenses of carriage," but the second entry, clearly relating to the same allowance, although it names four convicts and not three, states explicitly that the four had been convicted of felony, and that they were conveyed from Fisherton Anger to the city of Bristol "in order for their transportation." The question of transportation will be dealt with later, when the Assize records are examined, but it is evident that the gaolers were responsible for the conveyance of the men and women sentenced to transportation.

The occupations of persons brought into court, contained in the excellent index to this volume, give in outline the industrial life of Wiltshire at this time. The list is a long one, but it falls naturally into certain divisions. There are those who may be classified as local tradesmen, dealing with housing, such as the carpenters and joiners, brickmakers, thatchers, braziers, glaziers, sawyers, masons, etc., and those selling wearing apparel, such as the tailors, glovers, mercers, hatters, perukemakers, staymakers and others. Then there were the men of the land, the farmers, husbandmen, graziers, shepherds, gardeners, the farm labourers and servants, and, dealing with the grain, the millers and maltsters.

But, apart from these there were, apparently, two main industries, the weaving and the leather industries. The former is shown to have employed workers of many descriptions such as the broadweavers and weavers themselves (who are more frequently mentioned in the records than any other class), and their attendant woolsorters, clothdrawers, flaxdressers, dyers, fullers, scribblers, tackers, shearmen and others. Emphasis is laid upon the importance of this industry in Wiltshire by the appointment of George Barnes the younger to act as inspector of the mills, shops, outhouses and tenter grounds "of every clothier, millman and other persons concerned in the manufacture or milling of mixed or medley woollen broadcloth in the parish of Horningham." A further duty imposed upon this early factory inspector was to watch that the workmen's wages were not paid in any other way than in money.

The leather industry is represented by such occupations as fellmongers, curriers, leatherdressers, tanners, and (dependent upon the trade) the saddlers and shoemakers. To round off this summary of Wiltshire working folk, one of the bell-founders from the famous bellfoundry at Aldbourne duly appeared in court for an assault and parted with half-a-crown by direction of the justices ! And, finally, the justices appointed two scavengers, one for Chippenham and one for Warminster, each for one year, to "cleanse and scavenge all the streets of the said towns." At Chippenham the scavenger was to co-operate with two leading residents, a clothier and a saddler, to make a rate to cover the costs of the year, the rate to be approved by

the justices, and at Warminster the scavenger (described as Robert Bleek, "gent") was to act with a local merchant to the same effect.

Before turning to the Assize records it must be noted that "the justice's clerk," although never mentioned by name, is frequently referred to, such references always being in connexion with the payment or non-payment of fees (*e.g.*, "received for justice's clerk, paid him," or "the justice's clerk not paid," such entries obviously referring to the personal clerk to a single justice).

There is little to raise a laugh in quarter sessions records of any county, but here and there are to be found entries which are not without humour. A presentment of the grand jury—"We present the constable . . . for not bringing in his presentment, and we have nothing else presentable." And the presentment of a hundred jury—"We present every thing in good repayer to the best of ower knowleg akording to the seson of the year." Again, "We present that there is a common highway in a river out of repair" (this must mean a ford), and, from the parish of Chalk came this most convincing report—"We having considered the nature of the oath we have taken, we know nothing amiss that concerns us in that point, so we present all things well."

(To be concluded)

CAPITATION GRANTS TO COUNTY DISTRICTS

Damon Runyon's characters were well acquainted with the old equalizer: the revaluation has emphasized to certain local government characters that the equalizer they know, if not exactly lethal, can yet cause the disappearance of quantities of valuable financial life blood in no more time than it takes a betsy to bark. It is consequently necessary to approach all suggestions for further changes with the utmost caution.

In the comprehensive review of the financial relationships between central and local government now under way the equalization grant must obviously come under the most careful scrutiny, and already the advocates of one reform or another are in the field and the lobbying has started. The linked question of future grants to county districts has received much less publicity and we believe that the local authority associations have not so far expressed any decided opinions about this obviously controversial matter, which is, nevertheless, one of great importance to the majority of local authorities.

It will be recalled that capitation grants to county districts were born in 1930 when the subvention colloquially known as the Block Grant was introduced: a flat rate grant per head of population was paid, calculated in the case of urban authorities by dividing one half of the total county apportionments (excluding London) by the unweighted population of those counties: rural districts received grants at one-fifth of the capitation rate applicable to the urbans. In Command Paper 3134, presented to Parliament in 1928, the Minister of Health stated:

"These proposals in regard to the distribution of grant within each administrative county have been framed with special reference to the very considerable changes in the incidence of rates within the county involved in the transfer of poor law and certain highways to the county councils. In the great majority of cases rural districts would, on balance, obtain a large measure of relief from this widening of the area of charge at the expense of boroughs and urban district councils, who would not only be required to bear their rateable share of the heavy expenditure on rural roads transferred to the county, but would also remain responsible for their own unclassified streets. In addition, urban authorities will be responsible for carrying on other services not ordinarily provided in rural districts. The distribution of the grant to borough and district councils on an actual population basis and the calculation of grant to the rural districts at one-fifth only of the amount per head applicable to urban districts are considered to provide an adequate differentiation between urban districts and a reasonable and equitable balance between urban and rural interests. The grant payable to borough and district councils under the distribution will ordinarily be in excess of the actual loss of district rates due to derating, and will be applied by them in aid of the total rates required to be levied in their areas."

In 1947 Mr. Aneurin Bevan was piloting through Committee the Bill which was to become the Local Government Act, 1948. In relation to county district grants he said:

"It must, first of all, be kept in mind that the county districts will receive relief by the reduction in the county precept where, of course, the grant is faded off. We discussed that in the earlier passage of the bill. Therefore we must always add to the simple capitation grant, which the county districts receive, that further consideration, by virtue of the county precept, by which the ratepayer's burden will be reduced.

"In the second place also, it must always be borne in mind that since 1929, there has been a number of transferred functions from the county districts to the county councils, and that, therefore, the county districts have not the same headings under which to spend their money. That being so, if we are sending out block grants from the centre, those grants must, necessarily, be in subvention of the carrying out of local services, and must find their way to the particular unit of local government responsible for the discharge of those services.

"Where the county council receives in block grant less than that to which its county districts are entitled, it has to levy a rate itself to make up the difference. As the rate levied from its county districts is on the basis of rateable value and distributed on the basis of capitation, the worse off county districts will benefit at the expense of the better off county districts."

In 1953 the committee appointed by the Minister of Housing and Local Government to investigate the operation of the equalization grant recommended:

(i) The payment of Equalization Grant to county councils based as at present on the rateable value per head of weighted population of the whole county, but calculated on the expenditure of the county council for general county purposes only.

(ii) The payment of Equalization Grant to county district councils whose rateable value per head of unweighted population is below the national average, calculated, in a similar way to the county council grant, on the expenditure of the district council, which would be defined as including all payments made by the district council under precept with the exception of the precept for general county purposes.

(iii) That the power of a county council in s. 126 of the Act of 1948 to make contributions towards the expenditure of a county district council should remain unchanged to assist in any exceptional case.

(iv) The payment of temporary grants by the county council to losing county districts.

The system of capitation grants has been criticized on various grounds, chief of which are that a flat rate payment is made to

all districts of one class irrespective of fundamental differences between them in expenditure levels and rateable resources. This method has resulted in areas of high rateable value receiving grants to which they would not otherwise have been entitled, with correspondingly lower rates; and, particularly in urban counties, a transfer of funds from rural to urban districts.

Let us repeat that the effects of direct payment need very careful examination. The Minister's Investigating Committee recognized that opposition to their proposals would arise because in most counties the result would be an increase in the county precept and substantial changes in the rate poundages of individual county districts. Their answer to the first objection was that the effect of the changes would be to show the relations between county and district more clearly in their right perspective: in relation to the second, they thought that transitional arrangements by way of temporary grants to losing county districts would be the answer. (It will be remembered that these proposals were linked with the suggestion that there should be limits on expenditure ranking for grant, the limits being calculated by reference to national averages. In the words of the report: "Much of this (county district) expenditure is not aided by specific grants and is not subject to the same degree of central control. We could not recommend this great and important change without any restraints upon extravagance.")

We believe that the general effect of paying grant direct to county districts would be to reduce the total grant paid to the majority of receiving counties: those gaining would be counties not now eligible for equalization grant some of whose districts would qualify, and counties receiving small amounts of grant.

The County Councils' Association has already said that, although disposed to agree to divert grants to county districts, any such change would have to be preceded by a review of the present statutory obligation of county councils to make grants to district councils in aid of specific services, for example, housing, water and sewerage schemes. The Association made it plain that grants now given to certain districts might well not be given in future. They have pointed out also that it would be necessary to review the position of sparsely populated counties, which at present, because of sparsity weighting, receive substantial grant on district council expenditure.

The Ministerial Paper issued prior to the beginning of the deliberations of the Grant Investigating Committee made a condition that any changes suggested by the committee were not to increase the burden of grants upon the Exchequer, and so long as this stipulation remains in force we think local authorities will want to know exactly where they stand before agreeing to a change from the present system. A scheme which puts limits on local expenditure ranking for grant (the limits being fixed on a rough and ready system of averages), which would undoubtedly cause heavy losses to many county districts (only temporarily modified), which might lose county districts some of their present county council grants for such things as water and sewerage schemes, which is obviously unsatisfactory to the sparsely populated counties, and which being in force might be subject to drastic upheaval and change were derating to be abolished, is not one lightly to be accepted.

The habitués of Mindy's would probably have said that the arguments against a change amount to more than somewhat, and we see no reason to disagree with them.

MISCELLANEOUS INFORMATION

COUNTY BOROUGH OF MIDDLESBOROUGH: CHIEF CONSTABLE'S REPORT FOR 1955

The chief constable, Mr. A. E. Edwards, is due to retire and this is, therefore, his last report. He is not able to give a very hopeful report on the manpower position. The force as a whole numbered three less at the end than at the beginning of 1955. On December 31, with an establishment of 230, there were 40 vacancies. In the chief constable's opinion the recent reduction in hours and the pay award have not solved the problem. He thinks that many young men are taking a short term and a short sighted view in preferring present conditions in industry, with the higher wages obtained by working overtime, to the steadier income and greater security of the police service. It is noticeable that of the 26 losses during the year 15 were due to voluntary resignations to take up other employment, four of these men having served for less than 12 months. These voluntary resignations are a great loss because it means that most of the time and trouble spent in training the men concerned have been entirely wasted. A newly appointed constable cannot be wholly effective, and so the loss of these young man and the need to replace them by new recruits mean a still further strain on the fully effective members of the force.

During the year 1,917 indictable crimes were committed and 1,278 were detected. Juveniles were responsible for 520 of them. The figure of 1,917 crimes is well above the average (1,592) for the years 1946 to 1955 inclusive. The highest figure was 2,037 in 1953. That for 1954 was 1,868. It is pointed out that as 864 was the highest figure ever recorded before 1936 the extra strain which is now borne by the police is not hard to imagine. The chief constable, in commenting on crimes of violence, remarks that "many persons resort to violence at the slightest provocation and offenders need stern measures."

The number of adults prosecuted for crime was 309 and 10 others were cautioned. Exactly the same number of juveniles were taken before courts, 59 others were cautioned and one was returned to an approved school without court proceedings. It is recorded that many crimes committed by juveniles are done so expertly that it is difficult for investigating officers to guess whether to suspect juveniles or not. In the chief constable's view "the younger generation is becoming progressively precocious and existing legislation does little to assist the problem." He might add that many parents also do little to assist the problem and have all too little idea of their personal responsibility for seeing that their children behave properly.

Non-indictable offences resulted in proceedings against 3,241 adults and 374 juveniles. 1954's totals were 3,137 adults and 348 juveniles. Comment is made on the number of cases in which irresponsible and mischievous persons caused damage to all classes of property. There were 100 such prosecutions during the year.

Five hundred and sixty-three persons were prosecuted for offences of drunkenness, 20 more than in 1954 but 35 less than the average for the past 10 years. There were 27 prosecutions (32 in 1954) for offences against s. 15 of the Road Traffic Act, 1930, and the report states that "it is regrettable that penalties which are imposed in cases of this nature do not discourage drivers from taking too much intoxicating liquor thereby endangering not only their own lives but those of innocent people."

During the year 2,036 accidents were recorded and 297 of these resulted in death or injury. Parents are urged to continue to remind their children of the dangers on the roads and mothers are asked to escort their infant children to school whenever possible so as to protect them and to teach them by example how to behave on the roads in order to avoid unnecessary dangers.

Middlesborough seems to have more than its fair share of abnormal loads. Five hundred and sixty-three was last year's total, and it included four which were 141 *ft.* long, 14 *ft.* wide, 12 *ft.* high and which weighed 180 *tons* each.

CITY OF LEICESTER: CHIEF CONSTABLE'S REPORT FOR 1955

Recruiting is a big problem for the chief constable of this force. With an authorized establishment of 443 he has an actual strength of only 332, leaving 111 vacancies. During 1955, 34 men left the force (including 17 who resigned voluntarily) and only 27 were recruited, so that there was a net loss of seven. Only 145 applications to join were received during 1955, against 290 in 1954, and of the 145 15 were still in abeyance at the end of the year and 26 were appointed to the force. To be added to the 145 were 11 applications left over from 1954. Of these 83 had to be rejected for one reason or another, and 32 did not continue with their applications. With 111 vacancies still

to be filled it looks as though this force is likely to remain short of men for a considerable time to come . As the chief constable remarks "Whether the new pay awards, which came into force on December 16, 1955, will improve the position remains to be seen"

The former chief constable, Mr. O. J. B. Cole, retired during the year after 46 years police service. His successor, Mr. Galbraith, had difficulty, to use his own words, in " commenting upon a year's work over which he had presided for only 13 days." His remarks, therefore, are related almost wholly to the main facts brought out by the statistics contained in the report.

Dealing with road accidents he notes that some 35 places were found to be danger spots and of these no less than 11 were junctions at which the traffic is controlled by traffic lights. This seems to show a wilful disregard of the signals and suggests that drivers must be too prone to ignore the red light or to seek to " beat " it by crossing on the amber. It needs only two drivers of this mind travelling at right angles to one another and an accident is almost certain. In all there were 4,109 reported accidents during 1955. The figures for the preceding four years were 3,686, 3,548, 3,228 and 3,090 respectively, a sad story of a steady increase from year to year.

In all, 1,872 persons were dealt with for various traffic offences, including 270 who were charged with dangerous or careless driving. There were also 18 prosecutions for offences against s. 15 of the Road Traffic Act, 1930.

During 1955 there were 2,059 recorded crimes, including 310 breaking offences, and 756 persons were prosecuted. These figures are compared with those for 1935, when they were 1,327, 183 and 327 respectively and with those for 1945, which were 2,588, 830 and 592. Thus although there were many more offences, in 1955, than there were 20 years before there has been a welcome reduction from the very high figure shown immediately after the war and in succeeding years. The detection rate in 1955 was the very high one of 73·1 *per cent.* There has been a steady increase in this percentage figure from that of 47·1 recorded in 1951.

Of the 1,505 detected crimes juvenile offenders were responsible for 368. During 1955, 227 juveniles were charged or officially cautioned, an increase of one over 1954, but 207 offences were " taken into consideration " compared with 134 in the previous year. Of the 227 juvenile offenders dealt with in 1955, 46 had previously been under the notice of the police. There were 27 committals to approved schools and 124 probation orders, including seven in which a parent was bound over to be responsible for the offender's good behaviour.

The average number of days sickness per man during 1955 was the fairly high one of 10·2, though this was less than the 11·1 figure for 1954 and considerably less than the 14·3 recorded in 1951.

Special constables assisted their regular colleagues in various ways, and it is recorded in particular that during January and February they performed beat duty from 8 to 11 *p.m.*, 669 such duties being performed by 144 members. Fifty-five members did plain clothes duty at week-ends during the same months. Other beat duties were performed in November and December. The actual strength of the " specials " on December 31, was 169 men and three women.

OXFORDSHIRE PROBATION REPORT

The importance of adequate accommodation for probation officers, not only for their comfort but also for that of the people they interview, has been recognized by the authorities, and efforts are being made to provide it wherever possible.

In his report for 1955, Mr. Kenneth Thompson, senior probation officer for Oxfordshire says: ' Each probation officer now has a pleasant and adequately furnished room, where interviews can be conducted in privacy. The use of curtains and pictures help to produce a friendly atmosphere in which it is easier for anxious people to discuss their difficulties."

In spite of a decrease in the number of cases before the courts there has been an increase of nearly one third in the number of cases placed on probation, a fact which indicates the reluctance of magistrates to resort to more drastic methods before trying the effect of probation. If probation is to be successful, probation officers must be able to devote sufficient time and thought to each case, this means that their case loads must not be too heavy, due regard being had to time spent in travelling considerable distances in rural areas. In Oxfordshire the case loads have been heavy and most officers have been obliged to do much evening work. The probation committee took up the matter, and agreed that an additional officer should be appointed.

The question whether reports for the juvenile court on home conditions should be presented by the education authority or the probation officer is one upon which there is some difference of opinion and practice. This report states: " As from July 1, 1955, the Oxford city juvenile court justices decided that these reports should be provided by the probation officers during a trial period of one year. Realizing the many psychological advantages of being able to undertake a case from the beginning, the probation officers have welcomed this change, feeling sure it will make for better casework." The value of the work hitherto done by the children's officer is acknowledged as is the care taken by headmasters in the preparation of their reports. A remand for inquiries is common practice in juvenile courts, but probation officers would like to see more of such remands in some adult courts. Mr. Thompson is gratified to note an ever increasing use of the short remand for more detailed information about the accused. In 1955, 162 adult cases were investigated as against 105 in the previous year.

There is a well deserved tribute, under the heading of after-care, to the W.V.S. " The prompt and practical assistance of the W.V.S. has been of considerable value in many cases: the urgent and varied requests of the probation officer always seem to meet with the same cheerful and helpful response from this excellent organization."

We have once or twice referred to Alcoholics Anonymous, an association which appears to be doing good work among those who really wish to conquer the habit of excessive drinking. Mr. Thompson says with the help of good friends in the city of Oxford he was able to help in the formation of a branch of the society in Oxford.

What is described in reports and statistical returns as kindred social work includes a variety of cases in which probation officers are consulted. In 1955 the Oxfordshire probation officers dealt with 368 compared with 274 during 1954. Whilst the probation officers personally dealt with a large number of these problems, in many it was a matter of placing the inquirer in touch with the appropriate social agency.

ROAD CASUALTIES — JANUARY AND FEBRUARY, 1956

Provisional road accident figures for February show that in spite of the frost and snow, which made road travel difficult and dangerous in most parts of the country, there were fewer fatal accidents and serious injuries than in February last year.

Deaths numbered 265, a decrease of 44; serious injuries 3,212, a decrease of 116. There were, however, more cases of slight injury. These numbered 11,087, an increase of 200, making a total for killed and injured of 14,564, 40 more than in February 1955, which, however, had one less day.

Details for February are not yet available but in January, 1956, 2,041 road casualties were attributed primarily to ice, frost or snow, and 608 to fog. These figures compare with 1,774 and 132 in January of last year.

The final total for all casualties in January of this year was 19,921, showing an increase of 4,430 over January, 1955. Deaths numbered 465, an increase of 105.

HEREFORDSHIRE FINANCES

Hereford county treasurer, Mr. W. A. R. Denison, A.C.A., reports that the call on the ratepayers in 1956/57 for county purposes, subject to adjustment of balances, will increase by nine *per cent.* He points out however that in view of the increase in prices and wages generally during the past 12 months some increase in the cost of running local government services must be expected. Taking 1947 as a base retail prices in the United Kingdom had risen by 45 *per cent.* at the end of December, 1954, and rose by another nine *per cent.* during 1955. Comparable increases in weekly wage rates of all workers during the same periods were 44 *per cent.* and 10 *per cent.* There is also to be taken into account the unavoidable expansion of certain services, particularly education, although Mr. Denison makes it clear that the careful examination by the council of all projects involving additional expense has resulted in the postponing of a number of intrinsically sound schemes until more propitious times.

Hereford has not lost equalization grant as a result of the revaluation, receipts for 1956/57 being estimated at £517,000 as compared with £458,000 for the previous year. The increase of rateable value in the county averaged 62 *per cent.* as compared with the national average of 72 *per cent.* and Mr. Denison considers that the slightly increased equalization grant will largely offset the lower relative fall in Hereford's rate poundage as compared with the average English county.

The new penny rate is estimated to produce £4,643 as compared with £2,886 in 1955/56 and the rate precepted is 14*s.* 6*d*: in 1955/56 the corresponding figure was 20*s.* 3*d.*

The county fund balance at March 31, 1956, was estimated to amount to £225,000, which is not a large sum in relation to a gross expenditure of £3,300,000: this is emphasized when it is explained that only a quarter of the total is in the form of cash at bank. Because of the possibility of appeals against the new valuations the rating authorities are apprehensive that considerable sums may be temporarily retained by ratepayers and have asked the county council to consider not enforcing the full payment of precept instalments on the due dates if the rating authorities should be in difficulties: this may well lead to the county council having to meet expenditure in

advance of the receipt of income to a far greater extent than in previous years. In all the circumstances it is considered that appropriation of balances as rate aid should be limited and a reduction of only £38,000 is recommended.

The report on the estimates records that capital works totalling over £46,000, more than 10 *per cent.* of the total, were eliminated as a result of the appeal of the Chancellor of the Exchequer for limitation of capital expenditure. Loan debt at March 31, 1956, was £1,641,000, equivalent to £12 19*s.* 4*d.* per head of population. This figure is estimated to increase to about £14 13*s.* by March 31, 1957.

GLEANINGS FROM THE PRESS

Evening Standard. March 26, 1956

MAGISTRATES SIT ON A SUNDAY

A special Sunday court was held at Hove so that Mary Higgs, a 37 year old mother-to-be, of Walsingham Road, Hove, could appear on a charge of stealing a handbag containing £10 7*s.* 6*d.*

Mrs. Higgs was arrested on Saturday night and taken to the police station. The matron later became worried about her condition. The woman was remanded to Holloway.

The common law rule is that no judicial act should be performed on Sunday. " Sunday is *dies non juridicus*, a day on which no judicial act ought to be done." (32 *Halsbury*, 126, (2nd edn.)).

Section 102 (3) of the Magistrates' Courts Act, 1952, provides that " the issue on execution of any warrant under this act for the arrest of a person charged with an offence, or of a search warrant, shall be as effectual on Sunday as on any other day." This express provision legalizing the issue of warrants on Sunday would seem to show that in the absence of express enactment any other magisterial act ought not to be done on that day.

In *R.* v. *Ramsay* (1867) 16 W.R. 191; 33 Digest, 385, 948*i*, the defendant was arrested under a warrant, brought before a magistrate, and required to give sureties for good behaviour, or, in default, be imprisoned. The defendant refused and a warrant was made out, under which he was committed to prison till he should find sureties. All these proceedings took place on Sunday, and the warrants and entry in the sessions book bore date of that day. It was held that although the arrest might be good, the taking of sureties and committal in default was a judicial act and therefore void as done on a Sunday.

Herts Advertiser. March 2, 1956

ACCUSED OF POST OFFICE FORGERY

St. Albans City Justices Send Woman for Trial

Irene Armstrong, who for two years worked as a housekeeper in Oster Street, St, Albans, was at St. Albans city sessions yesterday committed for trial at Hertfordshire quarter sessions charged with obtaining £10 *by means of a forged post office savings bank book and withdrawal form, on November* 26, *and obtaining another* £10 *by this method in December* 2.

Mr. E. J. Waller, prosecuting, said that on January 1, *Mr. Albert Archer, of* 38 *Oster Street, St. Albans, discovered that his post office savings book was missing from a deed box in his bedroom cupboard. It was discovered that withdrawals had been made from the account, and accused now confessed that she had taken the book. She had altered " Mr." into " Mrs." on the book.*

Detective-Sergeant Jenkins said that accused made a statement in which she said she had got into debt over clothes and other things. She saw Mr. Archer's bank book when she was cleaning the bedroom. She was tempted and took it, altering " Mr." to " Mrs." and drawing out money at the Verulam Road sub-post office. She had intended only to borrow the money and had meant to return it.

Accused, who was said at present to have no fixed address, was allowed bail in her surety of £20, *and was granted legal aid.*

This woman was sent for trial at quarter sessions on two charges under s. 7 (*a*) of the Forgery Act, 1913, for obtaining two sums of £10 by virtue of a forged Post Office savings bank book and withdrawal forms, knowing them to be forged, and with intent to defraud.

Section 13 of the Forgery Act, 1913, says: " a court of quarter sessions in England shall not have jurisdiction to try an indictment for any offence under this Act or for an offence, which, under any enactment for the time being in force, is declared to be forgery or to be punishable as forgery." But " offences under para. (*a*) of subs. (2) of s. 2 of the Forgery Act, 1913, in relation to any document being an authority or request for the payment of money or for the delivery or transfer of goods and chattels, where the amount of the money or the value of the goods or chattels does not exceed £20, and under para. (*a*) of s. 7 of that Act, where the amount of the money or the value of the property in respect of which the offence is committed does not exceed £20," may be dealt with summarily with the accused's consent (Magistrates' Courts Act, 1952, s. 19, sch. 1). Quarter sessions have jurisdiction to try such cases and also with uttering any forged document the forgery of which is an offence triable at quarter sessions (Criminal Justice Act, 1925, s. 18, sch. 1). When quarter sessions is presided over by a legally qualified chairman it has jurisdiction to try certain other forgery offences (Administration of Justice (Miscellaneous Provisions) Act, 1938, s. 2, sch. 1).

As the amount involved in each charge was under £20, the defendant in this case was properly committed to quarter sessions. She could also have been dealt with summarily by consent. But even if the magistrates had been willing to deal with the matter with her consent, they could not have done so unless the prosecution also consented. By subs. (7) of s. 19, of the Magistrates' Courts Act, 1952, a magistrates' court cannot try an indictable case summarily (*a*) without the consent of the prosecutor in a case affecting the property or affairs of Her Majesty or of a public body as defined by s. 7 of the Public Bodies Corrupt Practices Act, 1889; or (*b*) without the consent of the Director of Public Prosecutions where the prosecution is being carried on by him.

ADDITIONS TO COMMISSIONS

BUCKINGHAM COUNTY

Mrs. Murial Eyles, Tanglewood, Hazlemere.
Major Christopher Lionel Hanbury, M.B.E., T.D., Juniper Hill, Taplow.
Lt.-Col. Burnard Leigh Morton, O.B.E., Maryfield Cottage, Taplow.

CAERNARVON COUNTY

Mrs. Marian Ann Roberts, Plas Newydd, Penrhos, Pwllheli.

CAMBRIDGE COUNTY

Mrs. Brenda Coralie Hyde-Smith, The Grange, Gt. Wilbraham, Cambs.

DENBIGH COUNTY

Stanley Arthur Bower, 60 Maes Hyfryd, Glan Conway, Denbs.
Brigadier John Addison Russell Colam, C.B.E., Cae Dai, Denbigh.
Ellis Evan Edwards, Tynymaes, Llanrhaedr, Oswestry.
Edward Percy Kyffin Evans, Glaniwrch, Llanrhaeadr, Oswestry.
Donald Wynn Hughes, Rydal School, Colwyn Bay.
Mrs. Enid Annie Hughes, M.D., The Manor House, Ruthin.
Mrs. Ellinor Mary Morris, Tynewydd, Llansilin, Oswestry.

GLAMORGAN COUNTY

John Stephen Davies, 29 Tynyhonau Road, Pontardulais, Swansea.
Mrs. Theodosia Winifred Enoch, 57 Neath Road, Maesteg.
Mrs. Enid Dilys Jones, Brynteg, Blackmill, Bridgend.
Arthur Powell, 64 Duffryn Street, Ferndale.
Brinley Ewart Rowlands, 12 Tyisaf Road, Gelli, Pentre, Rhondda.
Marchant-Williams Smith, Station Pharmacy, Caerau, nr. Bridgend.
Mrs. Doris Maud Thorpe, The Rise, Radyr, nr. Cardiff.
David Wyamar Vaughan, Colwinston House, Colwinston, nr. Bridgend.

GLOUCESTER COUNTY

Mrs. Etty Elizabeth Barnes, 23 Garden Road, Charlton Kings, Glos.
Leonard Ernest Broome, 2 Malvern Place, Cheltenham.
Mrs. Faith Campbell Caroe, Furzey Hill, nr. Cirencester, Glos.
George Jones, 37 Midland Road, Gloucester.
Brigadier Gilbert Reader McMeekan, C.B., D.S.O., O.B.E., Kimsbury House, nr. Gloucester.
Mrs. Gabrielle Stephanie Ward, Greyholme, Bishop's Cleeve.

LEICESTER COUNTY

Captain Philip Herbert Earle Welby-Everard, D.S.C., R.N. (retd.), Glebe House, Muston.

STAFFORD COUNTY

Mrs. Ethel Mary Hawley, Sunnybrae, Friary Avenue, Lichfield.
Arthur Heathcote, 531 Watling Street, Mile Oak, Fazeley, Tamworth.
William Howard Tripp, Tame House, Hopwas, nr. Lichfield.
Brigadier Cecil John Woolley, The Old Vicarage, Hanford, Stoke-on-Trent.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

THE IMPORTANCE OF STATEMENTS MADE AT THE TIME

My inquiry, " If the principle is good for the police in discipline, why should it be bad for the motorist (or burglar) in law? " has provoked the deputy chief constable of Peterborough to a whimsically humorous defence of the Police (Discipline) Regulations.

Mr. Beal says that if the procedure were extended to members of the public the first conviction under it would be quashed with severe comments by the Appeal Court. This statement is intelligible only on the assumption that the inferior court registered a conviction on evidence which was clearly inadmissible. If the court dealt with the case on the evidence before it, excluding the inadmissible but damning " statement made at the time," and acquitted the prisoner, there would be no conviction to quash.

Under the police regulations, if the tribunal (consisting not only of five members of the committee but also of one person selected from a list of persons nominated by the Lord Chief Justice) based their conclusions on a pinch of salt and the inadmissible " statement made at the time," and the police authority on the basis of that report decided to dismiss the police officer, the Home Secretary, on appeal, would surely be bound to quash the conviction in order that " justice," in accordance with regulations, must not only be done but also must manifestly appear to be done.

Lest I be thought to commend the extension of the police discipline procedure to members of the public, may I put my question in another form ? Why should a principle which is good for the motorist (or burglar) be bad for the police ?

Yours faithfully,
F. W. TAYLOR.

46 Denmark Street,
Watford,
Herts.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

With reference to the paragraph in " Notes of the Week " in your issue of March 17, concerning the duty to report an accident to one's own vehicle, the new Road Traffic Bill now contains an amendment (*see* sch. 6, para. 6) by which it is made clear that s. 22 will not apply to injury to the driver, nor to damage to his vehicle or a trailer drawn thereby, or to any animal in his vehicle or a trailer drawn thereby.

Yours faithfully,
CAMBRIAN.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

SUBMISSION OF " NO CASE " IN MATRIMONIAL CASES

This is my brief reply to your footnote to my letter printed at p. 170, *ante*.

It seems clear to me that a submission of no case is not an address within the meaning of r. 18, and that the other view leads to difficulties.

The following is an example of the difficulties. If an advocate makes an unsuccessful submission that there is no case to answer and he then proposes to call the defendant husband but no other witnesses, your view would appear to debar the advocate from addressing the court on the facts of the case as a whole, since the rule precludes two speeches where the defendant is the sole witness for the defence. You can't allow two speeches and say that each one is only half a speech !

Yours faithfully,
L. H. SHARPE.

Justices' Clerk's Office,
44 Princes Street,
Ipswich.

[We are sorry to disagree with our learned correspondent, but we do not think that the difficulty referred to in the last paragraph of his letter is a very real one. We agree that if the defendant advocate wishes to make a submission of " No Case " he is choosing thereby to make his speech before calling his evidence and, if he calls no witness other than the defendant, he cannot make a speech after his client has given evidence. But in his speech before calling the defendant he can deal first with his submission of " No Case " and can add then that if the court is against him on that submission his case is . . . and he can proceed then to address the court as does an advocate who elects to make his speech before calling his evidence.—*Ed., J.P. and L.G.R.*]

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

FIREARMS AND CHILDREN

Mr. S. Dye (Norfolk S.W.) asked the Secretary of State for the Home Department in the Commons whether his attention had been drawn to the comments of the Dereham District Coroner regarding the law concerning the possession and use of firearms by children, and if he would introduce legislation to meet the point.

The Under Secretary of State for the Home Department, Mr. W. Deedes, replied that the Home Secretary had seen the comments of the coroner. The existing law, which prohibited the purchase or hire of shot guns by persons under 17, but imposed no other restrictions on their possession or use, was based on the report submitted in 1934 by a departmental committee. The Home Secretary had considered carefully the coroner's comments and the circumstances of the case which prompted them, but on his present information, he did not consider that there were adequate grounds so far as the number of accidents from that cause was concerned, for departing from the policy recommended by the committee, and approved by Parliament.

In reply to a supplementary question, Mr. Deedes said that the total number of fatal accidents in England and Wales caused by firearms and explosives in 1954, the last year for which figures were available, was 87, of which 15 were to children under the age of 15. It had been the view of successive Governments that the responsibility for deciding whether children should handle weapons must remain with the parents. Legislation would not meet the purpose.

CORPORAL PUNISHMENT

Mr. R. Sorensen (Leyton) asked the Secretary of State for the Home Department to what extent the seven *per cent.* decline in the infliction of corporal punishment in approved schools last year, as compared with the previous year, was due to the smaller number of children in those schools.

Mr. Deedes replied that the number of occasions on which corporal punishment was given in remand homes and approved schools in 1955 was about seven *per cent.* less than in 1954. In relation to the average number of children in the homes and schools in those years, there was a slight decrease in the incidence of corporal punishment in remand homes and a slight increase in approved schools.

PERSONALIA

APPOINTMENTS

Mr. G. C. Middleton, newly appointed chief assistant solicitor to Birkenhead county borough council (*see* our issue of April 21, last), will commence his new duties not later than June 1, next.

Mr. Eric C. Woods, LL.M., at present employed as assistant solicitor to Wood Green, Essex, corporation, has been appointed assistant solicitor to Brighton county borough council and will commence duty on May 7, next.

Miss Margaret Joan McCarthy and Miss Pearl Jones have been appointed probation officers for the city of Plymouth. Miss McCarthy has recently completed the Home Office Training Course for Probation Officers. Miss Jones holds a B.A. (Hons.) degree in classics and this is her first appointment to the probation service.

Mr. J. F. Claxton, senior legal assistant in the office of the Director of Public Prosecutions, has been promoted an assistant director, in the place of Mr. H. J. Parham, who retires on April 30.

RETIREMENTS

Mr. E. F. Cull, M.B.E., clerk to Hatfield, Herts., rural district council for 26 years, is to retire.

Superintendent A. S. Creasey, police chief of Southend-on-Sea, Essex, is to retire at the end of the month after 36 years' service. He will be succeeded by Chief Inspector H. J. Devil, with the rank of superintendent.

Mrs. Phyllis E. Gorton, probation officer for Blackburn, Lancs., is leaving the service. On completion of her training, over six years ago, she was appointed to serve the Lancashire No. 4 probation area comprising Blackburn borough and county, Accrington, Church, Clitheroe and Darwen.

OBITUARY

Mr. Frederick Smith, town clerk of Coventry, has died at the age of 73. Mr. Smith was born in Coventry and he served local government for 46 years. He went to Bablake School and later attended Mason College, Birmingham. During the first world war he was mentioned in despatches. After the war he was appointed deputy town clerk of Coventry and in 1924—five years later— was made town clerk. Mr. Smith wrote *Six hundred years of Municipal Life*, an important addition to Coventry's historical publications. When he retired in 1946, Mr. Smith was created an honorary freeman of the city in appreciation of his services.

Mr. William Bryan Forward, town clerk of Beccles, Suffolk, from 1914 until his resignation in 1947, has died at the age of 83.

Mr. Frank William Trehearne, a Master of the Supreme Court of Judicature (Chancery Division) from 1938 to 1954, has died at the age of 74. Mr. Trehearne was admitted in 1904.

The Hon. Mr. Justice Barry, Judge President of the Transvaal division of the Supreme Court of South Africa from 1943 to 1948, has died at the age of 78.

Sir Michael McDonnell, Chief Justice of Palestine from 1927 to 1937, has died at the age of 73.

HONOURS

Mr. Fred Parkes and Alderman Henry Blackburn, C.C., have been made honorary freemen of the borough of Fleetwood, Lancs.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Thursday, April 19

RABBITS BILL—read 3a.
PENSIONS (INCREASE) BILL—read 2a.

REVIEWS

Principles and Practice of Planning, Compulsory Purchase and Rating Law. By M. R. R. Davies. London: Butterworth & Co. (Publishers) Ltd. Price 40s. net.

This book is another of the legal works of medium size, which the publishers have entrusted to members of the teaching staffs of provincial universities. We have already remarked upon the possible advantage to students and newly qualified practitioners, of having this source of legal learning turned on to the exposition of modern law—in that there may possibly be a less purely academic approach, in those universities where practically all the law students will be intending to enter general practice as solicitors.

The collocation of subjects on the title page is peculiar, at first sight. There are precedents for the conjunction of planning and compulsory purchase (although powers of compulsory purchase extend to many other fields, as well as planning). But what is rating law doing in this company ? The answer is to be found in two facts: that the council of the Law Society have treated as a single subject in the Solicitors' Final Examination the three matters here dealt with, adding to them practice before the Lands Tribunal, and that a good many problems in connexion both with planning and with rating will now go to the Lands Tribunal for decision.

In part IV of the present work the constitution, jurisdiction, and procedure of the Lands Tribunal are examined in detail.

The first three parts of the book are devoted respectively to planning, compulsory purchase, and rating law, and each part is sub-divided into chapters, which aim at giving a brief but comprehensive account of some particular topic or aspect. The method of treatment may be illustrated by reference to chapter 2 entitled " Planning Control and Compensation Claims." The general meaning of development is explained; then come operations and uses which do not amount to development, and then the different classes of development, each of which is separately noticed. Then follow the different types of planning application, and the position where permission is refused or granted subject to conditions. Compensation and the obligation to purchase land in certain cases conclude this chapter. The next chapter sets out a number of appeal decisions, and then come enforcement and several ancillary matters. By the time the student or the young practitioner has mastered the 150 pages contained in part I, he will have a working grasp of how planning powers work today.

Part II, which deals with the compulsory acquisition of land, runs out to less than 50 pages, but within that compass it succeeds in indicating the steps to be taken for compulsory acquisition, and some of the most important decisions of the courts.

Part III upon the principles and practice of rating law begins with the machinery for making and collecting rates, and then passes to the principles of rateability and the mode of ascertaining values. Chapter 13 contained in this part, entitled "Derated and Exempted Properties " is of special importance at the moment, on account of the changes made by the Rating and Valuation (Miscellaneous Provisions) Act, 1955. We have already mentioned that part IV deals with the practice and procedure of the Lands Tribunal. Although this covers less than 20 pages, it sets out the constitution and procedure, and clearly distinguishes the different forms in which cases can come before the tribunal.

Although the subjects dealt with in the book are all specialized, and a great deal of the law is to be found in modern statutes, there are quite a number of decided cases, the list of which takes up some 13 pages, with full references to the reports. The list of statutory instruments covers six pages, which is some indication of the extent to which matters affecting landed property have, in the last few years, come to be dealt with by subordinate legislation.

The learned author, who is a member of the bar and lecturer in law in the University of Leeds, points out in his preface how large a part of the working law of real property now falls within the statutory fields dealt with in the book, instead of in those fields which would have been connoted to Victorian lawyers by a reference to the law of property. This is a point we made ourselves some time ago, when we suggested that lawyers responsible for tuition should impress upon their pupils that the practical problems (of a property owner or a person desiring to acquire property) arise now from public control more than from the older law. It is a point which, in our experience, is not always fully recognized by practising lawyers, so that those responsible for educating the coming generation of practitioners will do well to see that they master the present work, even if they do not happen to be taking the topics with which it deals as an optional examination subject.

Capital Punishment as a Deterrent: and the Alternative. By Gerald Gardiner, Q.C. London: Victor Gollancz, Ltd., 14 Henrietta Street, Covent Garden, W.C.2. Price 6s. net.

Mr. Gardiner modestly disclaims all literary pretentions, but he has written a book that needs no apology on that or on any other score. It is timely, moderate, unprejudiced and persuasive.

The book is the result of much thought and much reading. The author has studied the reports of and the evidence before the Select Committee of 1929–1930 and the recent Royal Commission, and his conclusions are largely based on these reports. Like most opponents of capital punishment, he attaches weight to what has happened in other countries which have abandoned the death penalty for murder, and on what happened in this country when it was abolished in respect of a number of offences less then murder. The gloomy prophecies of the alarmists have not been realized, and Mr. Gardiner believes that abolition would not be followed by an increase in murder or in the carrying of firearms by burglars. He relies on the evidence of history and not on either emotion or intuition.

The arguments in favour of retention are briefly and fairly set out and then met squarely, often from the reports of the Select Committee and the Royal Commission. It is pointed out, as has often been said before, that the infliction of capital punishment is a matter of great uncertainty, only a few of the murderers convicted being actually hanged. Mr. Gardiner thinks a fixed sentence of life imprisonment that would always be imposed would lead to more convictions and would act as a more effective deterrent than a chance, not to be regarded as near a certainty, of being hanged. Prisoners would serve their sentences under special conditions, perhaps in special prisons.

The book is well worth the careful study of those who have an open mind on this difficult subject. It is a strong, but never unfair, statement of one side of the controversy.

Taylor's Principles and Practice of Medical Jurisprudence. Eleventh Edition. Edited by Sir Sidney Smith, C.B.E., LL.D., M.D., F.R.C.P. Volume 1. London: J. and A. Churchill Ltd., 104 Gloucester Place, W.1. Price 70s. net.

Members of the medical and legal professions often come into contact with one another, and sometimes to a certain extent into conflict in the courts. It is well that the medical practitioner should have some knowledge of the law and that the lawyer should have some

understanding of the methods and duties of medical men. At times the lawyer may have to make some study of a branch of medicine for the purpose of a particular case in which he is engaged. *Taylor* is the standard book that is consulted on such matters. It is used as their authority by members of both professions, and it is read by others who are interested in the many cases in which medicine, chemistry and other branches of science play their part in legal cases, especially when those cases are criminal.

Science has made rapid advances during the present century, and medical jurisprudence becomes more and more indebted to it.

Blood groups were discovered not much more than 50 years ago, and there are now sub-groups and results can be obtained also from saliva and other secretions. The technique is explained, and its value in investigations into crime, paternity and other matters is of the greatest importance. Present day science also enables experts to identify firearms from which bullets have been ejected. The chemist can now analyse and identify minute particles of dust and other substances that may be found in the clothing of a suspect, or on the scene of a crime. The experts help the medical investigator and, in the case of legal proceedings, the court. This book, however, is concerned most of all with the medical practitioner. Various techniques are explained in detail, and his legal position in various situations is carefully explained. For example, he must be on his guard against making any physical examination without lawful authority, which usually means consent. He may be called in by the police and he needs to know what is the correct procedure for him to adopt at the police station. At some time or other, maybe often, he will have to give evidence in court in civil or criminal proceedings, and he wants to be a good witness, of real assistance to the court. *Taylor* supplies him with exactly the guidance he needs, and the rules laid down might well be adopted by all professional and expert witnesses. In particular the advice to answer questions in simple non-technical language might be taken to heart.

Naturally, the medical and the legal professions are not in complete agreement about insanity and responsibility, but between them they generally contrive to make the law work fairly. The present edition includes a wise chapter on psychiatry and the law. At the outset it is recognized that " in all aspects of the relationship between psychiatry and the law, it is in fact the law which calls the tune."

The learned editor has been assisted in the preparation of this edition by Dr. Keith Simpson, Mr. Gerald Howard, Q.C., Dr. David Stafford-Clark and Mr. L. G. Nickolls, M.Sc., all distinguished authorities in their respective spheres. Numerous illustrations add value and interest to the work.

Taylor has stood the test of nearly a century. As time goes on and science progresses its value becomes enhanced.

HAIR-RAISING STORY

A piercing *cri de coeur* comes from Malvern, where the National Hairdressers' Federation has been holding its annual conference. Six and a half million women in this country (the president complained) never go to a hairdresser at all; of these defaulters four million " think they know more than the hairdresser and therefore stay at home and do it themselves." Only five and a half millions of the female population go to their hairdresser once, twice or three times a year for a " permanent " wave (the adjective is evidently used in a relative sense). " In other words," the speaker continued, " 63 in every 100 women have not yet learned the advantages of putting their crowning glory into the expert hands of professionally-trained craftsmen."

In this sorry state of affairs, where does the responsibility lie ? Not, asserted the president, upon the women, but upon the men. More statistical evidence followed : it had been estimated that " three-quarters of the men did not even notice that their wives or girl-friends had been to the hairdresser's, and more than half of the remainder immediately said that they did not like their wives' or girl-friends' hair-style." And then comes the damning indictment: " British men are therefore clearly to blame. They are too unimaginative, self-conscious and stodgy. They do not want their women to change."

There are a number of surprising features in this diagnosis. If there is one subject on which (we should have thought) the ladies will brook no interference from lay members of the other sex, it is the subject of dress, cosmetics, hair-styles and personal adornment. We say " lay-members " advisedly, since (by a strange anomaly) most of the experts in clothes, beauty-culture, hair-dressing and feminine fashions are reputedly males. They go in for names like Pierre, Henri, Raymond and others of Gallic origin, intended to be suggestive of affiliations with the Rue de Rivoli and the Place de l'Opéra; their voices, gestures and general appearance are exotic to a degree which is apt to excite doubts not so much about their nationality as their gender. This, however, is an established tradition; it is impossible to imagine any woman seeking advice on her sartorial problems, her make-up or her personal appearance from a man with a colourless Anglo-Saxon name like Bill Bloggs, whatever the care and skill he may exercise in his profession. Such things are simply not done in the best circles.

Another astonishing thing about the above-quoted pronouncements is the implication they bear of the inefficacy of commercial publicity. American influence is rapidly undermining our conservative attitude to the relations between the sexes, and bids fair to convert our community, like theirs, into a matriarchal society. Can it really be true that the frail, semi-deflated balloon of masculine self-esteem is capable of surviving the concentrated barrage of advertisements which, day by day, in newspapers, women's journals, railway-stations, cinemas and shop-windows, discharge their guided missiles against the most vulnerable component of a woman's psychology—her desire to look her best and to entice and capture the interest of the men ? Resorting in our turn to statistics, we venture to assert that about 90 *per cent.* of the advertisements one sees are concerned with commodities or appliances for the embellishment of some part of the female form divine, from the tips of her daintily-shod feet to the shining summit of her sleek *coiffure*.

Among those who minister to her multifarious needs, the hairdresser may well claim pride of place. He belongs to a profession of honourable antiquity, which was as indispensable to the women of Ancient Egypt, Crete and Greece as it is to those of modern times. Poets of all ages, from the author of the *Song of Songs* to Algernon Swinburne, have sung the praises of woman's crowning glory. The risks attendant upon neglecting this part of the toilet are forcefully illustrated in the legend of Medusa and her sister Gorgons, whose hair became so unruly that their heads bristled with hissing serpents. Their aspect was, indeed, so fearful that any man who looked upon them was turned immediately into stone—a circumstance that must have considerably lowered their value in the marriage market. Many British husbands, it seems, are apt to turn a stony glare upon their spouses' innovations in the matter of hair-style, but few have been known to go to such extremes as did the so-called hero, Perseus, to mark his disapprobation of Medusa's *coiffure*. He was interested enough to take a close-up view of her reflection in his polished shield; but instead of behaving like a gentleman and treating her to a permanent wave, or even a home-shampoo, he resorted, impetuously, to the drastic remedy of decapitation. Such lack of consideration is fortunately rare: but the legend of Perseus and Medusa is a dreadful warning of the lengths to which " the unimaginative, self-conscious and stodgy male " may be driven for the sake of saving a couple of guineas at Maison Philippe, Coiffeur de Dames.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Acquisition of Land—*Agreement—Liability under s.* 133 *of Lands Clauses Act*, 1845.

On March 31, 1954, the county council as local education authority purchased by agreement a small country mansion for conversion into a secondary school. The vendor was permitted to remain in the property as a bare licensee on his undertaking to pay any rates assessed on the property up to the date of his departure. He remained in occupation until July 13, 1954. From that date the property was in the hands of a firm of contractors for the purpose of carrying out certain works of repair and alteration thereto, the work being completed on September 13, 1954. On that date the county council began to use the premises for school purposes, and rates have only been paid by them from then.

The rating authority for the area now claim that by virtue of s. 133 of the Lands Clauses Consolidation Act, 1845, the county council should make good the deficiency in the assessment to general rates caused by the execution of the works to the property, the period for which they are claiming being, in effect, March 31–September 13, 1954.

I should welcome your opinion on the following points:

(1) Section 133 (as interpreted by s. 2 of the same Act) seems only to apply to works authorized by the special Act (*i.e.*, the Local Government Act, 1933—*see* s. 176 thereof). As these works are not strictly authorized by the Act of 1933, but only the purchase of the land, can s. 133 apply at all in this case ?

(2) If s. 133 does apply, the deficiency must be computed according to the rateable value of the property " at the time of the passing of the special Act." Having regard to the Local Government Act, 1933, s. 176, does this mean the date when the Act of 1933 was passed, or should one by analogy with compulsory purchase take the date when the property was acquired ?

(3) If s. 133 applies should the period March 31–July 13, 1954, be excluded from the calculation and rates levied separately in respect of that period ?

BOLOPY.

Answer.

(1) The council do not depend on s. 6 of the Act of 1845 for their power to take land by agreement. Section 157 of the Local Government Act, 1933, gives an independent power. Further, s. 157 says they may do so for the purpose of their functions under any general Act. Then s. 176 says that the Act of 1933 is to be deemed the special Act, for purposes of the Act of 1845 which it incorporates " Where under this part of this Act a local authority are authorized to acquire land by agreement."

Therefore the Act of 1845 is incorporated, for purchases authorized by s. 157, whatever is said by s. 2 of the Act of 1845. Alternatively, the words "the undertaking" in s. 2 mean "any of the functions under" the Act of 1933, or any other public general Act, as in s. 157 thereof.

(2) By virtue of s. 176, it must in our opinion mean November 17, 1933.

(3) Yes, in our opinion. The property seems to have been in beneficial occupation up to July 13, and thereafter void. Whether up to July the council or the licensee was in occupation is a question that may turn on the terms of the licence. A person who by virtue of a bare licence remains on property formerly occupied by him as owner or lessee is not necessarily to be regarded as having ceased to occupy.

(This query raises by implication the interesting question whether s. 133 of the Act of 1845 applies at all to a purchase by agreement, in view of the Scottish case of *Barony Parish Council* v. *Glasgow School Board* (1896) 23 R. (Court of Session) 221. *See* article at p. 87 *ante*.)

2.—Husband and Wife—*Revival of condoned offences.*

We act for a married woman who is the complainant in connexion with proceedings which she has instituted against her husband under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895–1949, upon the grounds of persistent cruelty and constructive desertion. In addition, we have applied for a summons on the grounds of her husband's adultery which took place over a period of four years ending on December 11, 1953, and although this was condoned by the complainant, we now suggest that this has been revived in view of his subsequent conduct. It will be appreciated that in the High Court adultery which has been condoned is revived by subsequent matrimonial misconduct. In the magistrates' court it is laid down that adultery must have taken place within six months from the date of the complaint. However, in view of the High Court ruling, we shall be glad to know whether the magistrates' court has power to act upon the complaint. We cannot find any authority and shall be glad to have your observations thereon. TEWITT.

Answer.

Principles laid down by the High Court in matrimonial cases apply to matrimonial cases in magistrates' courts. In the present case if persistent cruelty or desertion is proved to have taken place after the adultery was condoned the adultery is revived, *Beard* v. *Beard* [1945] 2 All E.R. 306; *Lloyd* v. *Lloyd and Hill* [1947] 1 All E.R. 383. In our opinion the magistrates' court can act upon the complaint. Though the adultery is alleged to have taken place more than six months before this complaint was made, we consider it in time because the revival by subsequent misconduct gives a new ground of complaint.

3.—Licensing—*Occasional licence—Consent to grant of licences for consecutive periods.*

I shall be glad of your opinion as to whether the justices are able to give consent for an occasional licence for periods in excess of three weeks. A licensee in this division regularly obtains occasional licences for the sale of intoxicating liquor at cattle sales which are held every fortnight. Section 151 of the Customs and Excise Act, 1952, provides that where the appropriate consent has been obtained the Commissioners shall grant an excise licence authorizing the sale during such period, not exceeding three weeks at one time, as may be specified in the consent. This limitation of three weeks does of course prevent the commissioners at one time from granting an excise licence for more than two sale days. It does not appear however that the section necessarily prevents the justices from giving their consent for the grant each fortnight for a period of say six months. I believe that this is done in some parts of the country and I shall be grateful for any observations you can make. NUNEA.

Answer.

Before the passing of the Customs and Excise Act, 1952, the period for which an occasional licence might run was limited to " not exceeding three consecutive days at any one time " by s. 13 of the Revenue Act, 1862. This was considered in *R.* v. *Bath Licensing JJ., ex parte Chittenden* [1952] 2 All E.R. 700; 116 J.P. 569, where justices were upheld in their having consented to the grant of occasional licences in series. Probably this decision is authority for saying that a number of consents may be given at the one time to have effect consecutive upon each other so as to cover an overall period of longer than three weeks.

But the *Bath* case, we think, was decided on its own facts to a large extent and we hesitate to accept it as authority for a statement that justices may consent to the grant of a series of occasional licences covering an overall period of such duration that they are granting what is in effect a permanent licence.

In our opinion, consent to the grant of a series of occasional licences covering a succession of cattle sales held over a period of six months is not what is contemplated by s. 151 (1) of the Customs and Excise Act, 1952.

4.—Licensing—*Transfer—Proper person to be applicant.*

A discussion has taken place as to the procedure for giving notice of a transfer of a justices' licence under the Licensing Act, 1953. The schedule to the Act states who shall be served with a copy of the notice, etc. It has been the practice for the licence holder to sign the notices and then they are served on the chief officer of police, etc. One view is that the notice must now be signed by the person to whom the licence is to be transferred to and not by the licence holder but there does not appear to be any authority for this and I shall be pleased to have your views on this matter.

N.L.A.

Answer.

The repealed s. 25 (3) of the Licensing (Consolidation) Act, 1910, said " The notice shall be signed by the applicant . . . and shall set forth the name of the person to whom it is proposed that the licence shall be transferred." The two descriptions in juxtaposition suggested that the applicant should be the person *from* whom the licence was proposed to be transferred.

Section 21 of the Licensing Act, 1953, has a contrary indication. Subsection (3) of the section mentioned " the applicant " in juxtaposition with the " holder of the licence ": subs. (7), proviso, mentions a situation in which " the applicant " is to be substituted for the " holder of the licence." This suggests that there has been a small, and convenient, change in the law whereby the applicant should be the person *to* whom it is proposed that the licence shall be transferred.

There is a further contrast between the 1910 and the 1953 provisions. By s. 25 (3) of the Act of 1910, the notice was required to state, in relation to the person to whom it was proposed that the licence should be transferred, " the place of his residence, and his trade or calling

during the six months preceding the serving of the notice." By the Licensing Act, 1953, sch. 3, part II, para. 2, identical particulars are required of the applicant.

Further support for the view that the transferee is the proper applicant is to be found in a comparison of the wording of s. 21 (6) of the Licensing Act, 1953, and s. 5 (4) (5) of the Licensing (Seamen's Canteens) Act, 1954. The latter section leaves little doubt that the "applicant" under the 1954 Act is the person who seeks a transfer to himself.

Therefore, in our opinion, the proper person to sign the notice of application for transfer is the person to whom the licence is sought to be transferred.

5.—Local Government—*Disability for voting, etc.—Pecuniary interest.*

A member of my council is a director and secretary of M & Co. Ltd., a local firm of builders and contractors. An owner in the district is anxious to improve his cottage by providing improved sanitary accommodation. The firm of M & Co. Ltd., have been consulted by the owner and have prepared the necessary plan, specification, and estimate of cost, and have completed on his behalf a form of application for an improvement grant under the Housing Act, 1949, and submitted the application to the council. So far as can be ascertained no other estimate or tender has been obtained, and it is understood that if and when the work proceeds it will be done by M & Co. Ltd.

Will you please advise: (*a*) Whether the member is prevented from discussing or voting on the application for an improvement grant; and (*b*) If not, will he become an interested party when a contract is entered into between M & Co. Ltd., and the owner. ALDERO.

Answer.

(*a*) Yes, in our opinion: *cp. R.* v. *Hendon R.D.C., ex parte Chorley* (1933) 97 J.P. 210.

(*b*) This does not arise.

6.—Public Health Act, 1936—*Sewerage—Rural locality in urban district.*

Approximately 50 dwelling-houses forming a small hamlet situate on the outskirts of but within an urban district are not connected with the existing sewage disposal system serving the urban district. The system, which has been in existence for many years, extends to within a quarter of a mile of the hamlet and the sewage disposal system has not been extended to the hamlet, although the water supply system for the urban district laid many years ago serves the hamlet and several petitions and applications have been made by the owners and occupiers of the houses comprising the hamlet during the past 20 or 30 years or more.

Under s. 14 of the Public Health Act, 1936, it is the duty of every local authority to provide such public sewers as may be necessary for effectually draining their district.

Under s. 1 (1) of the Rural Water Supplies and Sewerage Act, 1944, it appears that the Minister [of Health] may make a contribution towards expenses incurred by a local authority in making adequate provision for the sewerage, or disposal of the sewage of a rural locality, subject however to the proviso to that subsection. According to *Hobson's Local Government* published in 1951, p. 1094, this Act applies to "rural localities" as distinct from "rural districts," and, this being so, appears to apply to the hamlet above mentioned although situate in an urban district. It also appears that the proviso to that subsection is complied with, in that a supply of water in pipes to the hamlet has long since been provided.

The owners and occupiers of the dwellinghouses comprising the hamlet are now desirous of making a further application to the local authority to extend the existing sewage system to the hamlet, but before doing so require to know:

(1) Whether in the circumstances mentioned above the piped water supply provided for the hamlet many years ago complies with the proviso to s. 1 (1) of the Rural Water Supplies and Sewerage Act, 1944.

(2) If so, and the local authority agrees to extend the system to the hamlet, the Minister agrees to make a contribution under the said s. 1 (1), and the county council undertake to make a contribution under s. 2 of that Act, what expense, if any, will be placed on the owners or occupiers of the dwellinghouses comprising the hamlet in connection with the extension of the system, *i.e.*, will the difference between the actual cost of the scheme and the total of the contributions by the Minister and the county council be charged on the rates for the whole of the urban district, or will each individual owner and/or occupier be called upon to bear a proportionate part thereof ? It is appreciated that the individual owners and/or occupiers will be responsible for the cost of connecting their dwellinghouses to the main sewage pipe. PEWTON.

Answer.

(1) Yes, in our opinion.

(2) The expenses will be charged on the rates for the whole of the district, and the owners of premises will be liable only for the connexion to the sewer.

7.—Road Traffic Acts—*Driving on pavement—Section* 14, *Road Traffic Act*, 1930—"*Road being a bridleway or footway*"—*Section* 72, *Highways Act*, 1835.

A motor car is driven along the footpath in a main street of the town. The car is driven deliberately and parked on the footpath alongside a car parked correctly on the roadway. An argument ensues between the two drivers about the parking of the vehicles, the first driver having parked on the roadway outside premises where the other driver is employed. It is contended that the driver can be prosecuted under (1) s. 72 of the Highway Act, 1835, or under (2) s. 14 of the Road Traffic Act, 1930. The opinions are based on the wording of s. 14 of the Road Traffic Act, and it would appear there is some dubiety, especially in view of your answer to P.P. 4 at 119 J.P.N. 854. In this answer you state "the pavement not being a 'road being a bridleway or footway.'"

I would draw your attention to p. 189 of *Pratt and Mackenzie's Law of Highways* which says it is an offence to drive a motor vehicle on any footpath or bridleway whether alongside a road or not; *see* Road Traffic Act, 1930, s. 14. Furthermore, in the footnote in *Stone's* p. 2060, it says, "for driving motor vehicles on footpath *see* s. 14, Road Traffic Act, 1930."

Do you consider that a footpath in a town is not a footway within the meaning of the Road Traffic Act, 1930, s. 14 ? If so, quote your authority as it appears contradictory to other questions and answers appearing in the *Justice of the Peace and Local Government Review*, on previous occasions.

JIDDLE.

Answer.

We agree that to drive a motor car, which is a "carriage," on a pavement meant for footpassengers is an offence against s. 72, Highways Act, 1835.

We do not think that s. 14, Road Traffic Act, 1930, is appropriate. As we read that section it deals with the driving of vehicles elsewhere than on ordinary roads. The pavement or "footpath" of a street or road is part of that street or road. It is to be noted that the section mentions, first, various types of land "not being land forming part of a road" and continues *not* "or on any bridleway or footway" *but* "or *on any road being a bridleway or footway*." We think this phrase must be read as a whole and must be related to the rest of the section. In our view, as we said in answer to the P.P. referred to by our correspondent, the footpath of an ordinary street or road is not appropriately described as "a road being a bridleway or footway."

We can quote no authority and we appreciate that others may not agree with us.

8.—Road Traffic Acts—*Licence revoked by licensing authority—Not a disqualification.*

If a person who has had his driving licence revoked by the licensing authority under s. 5 (4) of the Road Traffic Act, 1930, subsequently drives a motor vehicle on a road, does he in your opinion commit an offence of driving while disqualified, contrary to s. 7 (4) of the Act or merely an offence of driving without a licence contrary to s. 4 of the Act?

J. LEXINGTON.

Answer.

Disqualified means disqualified by a conviction or by an order of a competent court (compare *Edwards* v. *Griffiths* [1953] 2 All E.R. 874; 117 J.P. 514). The offence in this case is that of driving without a licence.

9.—Road Traffic Acts—*Speed limit—Distance police vehicle follows a car in checking its speed.*

I have noticed at 119 J.P.N. 817, that in an article by John Hales-Tooke, entitled "At Forty You've Had It" the writer states "A police car has only to follow its quarry for five-tenths of a mile to establish an excessive speed." As it is to my knowledge that motorists have been convicted for speeding as a result of police checks as short as three-tenths of a mile, I should be obliged if you would kindly inform me whether there is any case law which sets out the shortest distance which a police check should cover to be acceptable by law.

JANST.

Answer.

There is no distance laid down. Justices must decide as a fact whether the evidence satisfies them that it is proved that the defendant was exceeding the speed limit. It may be that in different areas there are different police practices as to the distance a vehicle is to be followed before it is stopped.